

Wednesday, July 20, 2005

FOR BACKGROUND ONLY/NOT FOR ATTRIBUTION

SOURCES: House Republican Conference, Republican National Committee, and Selected Media Reports

Supreme Court Nominations

▪ LENGTH OF TIME FROM NOMINATION TO CONFIRMATION

President Bill Clinton nominated two Justices to the Supreme Court – Ruth Bader Ginsburg and Steven Breyer. Both were viewed as very liberal. Certainly, Republicans in Congress did not agree with these judges on a number of issues. But that did not stand in the way of the nomination process.

In fact, President Clinton's nominees made it through the nomination process two weeks faster (58 days), on average, than other Supreme Court nominations made in the previous 20 years (72 days).

Supreme Court nominations under President Clinton

<u>Stage</u>	<u>Average Days</u>
Nomination to Hearing	42
Hearing Days	4
Hearing to Markup	5
Markup to Floor	7
Total: Nomination to Confirmation	58

Modern Supreme Court nominations since 1975

<u>Stage</u>	<u>Average Days</u>
Nomination to Hearing	39
Hearing Days	5
Hearing to Markup	10
Markup to Floor	13
Total: Nomination to Confirmation	72

▪ WHAT THEY'RE SAYING ABOUT JOHN G. ROBERTS...

The Washington Post: "In Nominating Judge John G. Roberts Jr. To The Supreme Court, President Bush Picked A Man Of Substance And

Background Information from Congressman Joe Pitts



www.house.gov/pitts
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Seriousness." (Editorial, "The President's Choice," *The Washington Post*, 7/20/05)

- *The Washington Post*: "[H]e Was Previously Among The Country's Best-Regarded Appellate Lawyers, Both In Private Practice And As Deputy Solicitor General During The Administration Of George H.W. Bush." (Editorial, "The President's Choice," *The Washington Post*, 7/20/05)
- *The Washington Post*: "If Confirmed As The Successor To Justice Sandra Day O'Connor, It Is Likely That He Will Shift The Supreme Court Toward The Right. But His Nomination Is Not A Provocation To Democrats ... Possible Nominees Would Have Been. Mr. Bush Deserves Credit For Selecting Someone With The Potential To Attract Broad Support." (Editorial, "The President's Choice," *The Washington Post*, 7/20/05)

Los Angeles Times: "By All Accounts, John G. Roberts Jr. Is A Likable Guy. His List Of Friends And Supporters, Brandished By President Bush ... As He Announced Roberts As His Nominee For The Supreme Court, Stands At 156 And Counting, Spanning The Ideological Spectrum, With A Litany Of Adjectives That Would Make Any Mother (Or President For That Matter) Proud." (Editorial, "A Judicious Choice," *Los Angeles Times*, 7/20/05)

- *Los Angeles Times*: "Although Some Liberal Interest Groups Rushed To Portray Roberts As A Dangerous Extremist, His Nomination Seems To Signal A Desire On The Part Of The White House To Avoid A Nasty Confirmation Battle." (Editorial, "A Judicious Choice," *Los Angeles Times*, 7/20/05)
- *Los Angeles Times*: "He Has A Sterling Record In Washington As A Litigator, Appearing Before The Supreme Court 39 Times Over More Than A Decade, And Few He Has Encountered Have Anything Bad To Say About Him; Even Legal Adversaries Such As Walter Dellinger, A Solicitor General In The Clinton Administration, Praise Him." (Editorial, "A Judicious Choice," *Los Angeles Times*, 7/20/05)

Los Angeles Times: "Washington lawyer Thomas Goldstein, who has argued several cases before the Supreme Court and knows Roberts, said Roberts was so persuasive that he was likely to sway his colleagues in deliberations. The selection shows that 'the president didn't just want a vote,' Goldstein said. 'He wanted someone who could bring along the rest of the court, both by dint of his personality and credibility.'" (Warren Vieth, Edwin Chen and Mary Curtius, "Bush Leans Right on Court Choice," A1, 7/20/05)

- MORE: "'He could really move the court,' Goldstein said. 'That is the judgment they made. They picked the smartest guy and the guy best able to persuade, because he is open, accessible and incredibly well-respected. The people he will be joining have more respect for him than any other lawyer in the country. He was the man when it came to litigating Supreme Court cases.'" (Warren Vieth, Edwin Chen and Mary Curtius, "Bush Leans Right on Court Choice," A1, 7/20/05)

The New York Times' Linda Greenhouse: "[Roberts'] Were The Words Of Someone Deeply Anchored In The Trajectory Of Modern Constitutional Law, Not Of Someone Who Felt Himself On The Sidelines Throwing Brickbats, Nor Of Someone Who Felt Called To A Mission To Change The Status Quo." (Linda Greenhouse, "A Judge Anchored In Modern Law," *The New York Times*, 7/20/05)

The Associated Press: "John G. Roberts Pairs A Youthful Demeanor With A Sharp, Seasoned Legal Mind That Has Impressed Ivy League Professors, Government Lawyers And U.S. Presidents." (Donna Cassata, ""Colleagues Call High Court Nominee Smart," *The Associated Press*, 7/20/05)

Patrick J. Schiltz, A Professor At The University Of St. Thomas School Of Law: "He Is Not Only Absolutely Brilliant, But He Has Good Common Sense And Good Sense About People. I Do Not Think The Democrats Will Be Able To Touch Him. ... He Is Incredibly Charming, He Has Movie-Star Looks. ... He Has Been An Eagle Scout In His Personal Life." (Donna Cassata, ""Colleagues Call High Court Nominee Smart," *The Associated Press*, 7/20/05)

Pepperdine University Law Professor Douglas Kmiec: "He Is Not The Kind Of Person Who Will Deal With His Colleagues Through Footnotes, Through Written Memoranda Or E-Mail ... John Roberts' Style Is To Come To Your Office And Say, 'I Understand You Disagree With Me; Please Tell Me Why,' And Then Listen In Rapt Attention To Your Position -- Not Necessarily Agreeing But Letting You Know He Has Fully Considered Every Aspect Of Your Argument." (David G. Savage, Richard B. Schmitt and Henry Weinstein, "A Brief On The Nominee," *Los Angeles Times*, 7/20/05)

J. Warren Gorrell Jr., Chairman Of Hogan And Hartson: "John Is One Of Those Guys Who Is Almost Always The Smartest One In The Room, But You'd Never Know It ... He Doesn't Take Himself Too Seriously And Is Always Careful To Acknowledge The Accomplishments Of Other People. He Has A Great Legal Mind." (Neil A. Lewis, "An Ultimate Capital Insider," *The New York Times*, 7/20/05)

Sen. Mark Pryor (D-AR): "We Know That Justice Scalia Got 98 Votes When He Went Through, And You Know, It Can Happen Again Maybe." (Fox News', "O'Reilly Factor," 7/19/05)

Kendall Coffey, Who Argued Bush V. Gore On Behalf Of Al Gore, Said John Roberts "Really Is Very Hard To Criticize." (MSNBC's "Countdown With Keith Olbermann," 7/19/05)

Harvard Law Professor Laurence Tribe: "[I] Admire Him. I Respect Him." (MSNBC, "Live Coverage," 7/19/05)

NBC's Tim Russert: "The Questions About Ideology And Hot Button Issues Will Not Dominate The Hearings. By The Democrats I Speak To Who Were Fearing Someone Much More Conservative, Someone Without The Intellectual Or Capabilities As John Roberts Has Exemplified ..." (NBC's, "Roberts Nomination Coverage," 7/19/05)

Sen. Chuck Schumer (D-NY): "There's No Question That Judge Roberts Has Outstanding Legal Credentials And An Appropriate Legal Temperament And Demeanor." (Sen. Chuck Schumer, Press Conference, 7/19/05)

President Bill Clinton's Chief Of Staff Leon Panetta: "I Suspect That This Is A Judge Who's Got A Pretty Good, Certain Had I An Intellectual Record. He Has A Good Reputation For Integrity In The Jobs He's Had. And I Guess I'll Let The Democrats ... Clearly, This Is Somebody Who Doesn't Bring, It Seems To Me, Any Right Or Left Tinge At This Point." (MSNBC's "Countdown With Keith Olbermann," 7/19/05)

Fox News' Mort Kondracke: "I Think It's A Shrewd Pick And A Good Pick. He's Brilliant ... And Well Respected By The D.C. Bar. He's Not Written A Lot So There's Not A Lot Of Target He's Furnishing For The Democrats." (Fox News' "Hannity And Colmes," 7/19/05)

▪ WHAT THE FOUNDERS ENVISIONED

President Bush consulted with seventy Senators, according to his speech last night. While many Senators have indicated their feelings on the extent of these consultations, the Framers made clear that the President was to choose nominees. The Senate's only power was to accept or reject the President's choice. It does not include offering lists of acceptable nominees and has never included the right to filibuster judicial nominees.

In Federalist No. 66, Alexander Hamilton explained that: "It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice in the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made."